IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE SIXTEENTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE B.PRAKASH RAO**

–

**WRIT PETITION NO : 12269 of 1998**

Between:

1. The General Manager, Andhra Prabha Limited,
   Poornandampet, Vijayawada.
2. The Manager, Andhra Prabha Limited,
   Vizianagaram, Visakhapatnam.

**... PETITIONERS**

AND

1. Industrial Tribunal-cum-Labour Court,

Rep. by its Chariman & Presiding Officer,

Visakhapatnam.
2. T. Parvatheeswara Rap,
   D.No. 39-11-74, Muralinagar Jn.,
   Visakhapatnam-7.

**..RESPONDENTS**

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an Order, direction or a writ more particularly one in the nature of 'WRIT OF CERTIORARI' after calling for the records in ID No. 171 of 1993 from the first respondent Industrial Tribunal-cum-Labour Court, Visakhapatnam and quash the same.

**Counsel for the Petitioner: MR.S.RAVINDRANATH**

**Counsel for the Respondent No.1: GP FOR LABOUR**

**Counsel for the Respondent No.2: Mr K.Srinivasa Sharma**

**The Court made the following:**

**ORDER:**

Heard both sides.

The petitioner, which is the management filed this Writ Petition, *inter alia,* seeking Writ of Certiorari assailing the Award in I.D.No.171 of 1993 dated 24th December, 1997 passed by the first respondent herein.

The case of the petitioner in brief is that the second respondent was an employee of petitioners, and was transferred from Vizianagaram to Madras by an order dated 14.09.1991, whereupon he absented himself from duty from 12.03.1992 to 15.08.1992. After framing charges and issuing necessary notice, and after conducting enquiry, the petitioner was terminated from service on 7.4.1993 at Madras only, to which place he was transferred. Aggrieved by the same, the petitioner sought a reference to Industrial Tribunal and accordingly the Government of Andhra Pradesh referred the matter to Industrial Tribunal at Visakhapatnam. The petitioner raised a preliminary objection with regard to jurisdiction in I.A.No.138/1994 in I.D.No.171/1993. The Tribunal by order dated 23.12.1996 observing that the issue of jurisdiction will be decided at the stage of final hearing, dismissed the preliminary objection petition. However, while disposing of the main I.D., as the Tribunal did not give any finding with regard to jurisdiction, and directed reinstatement with back wages and continuity of service and with attendant benefits, the petitioner filed this writ petition.

There is no dispute that the 2nd respondent after transfer absented from duty and therefore enquiry was conducted and terminated at Madras, to which he was transferred. Yet he sought reference by the Government of A.P., which was entertained. It is also admitted that the petitioners through I.A.No.138/1994

in I.D.No.171/1993 raised the question of jurisdiction and the Tribunal by holding that the same would be decided at the time of final hearing, dismissed the I.A. From a perusal of the final Award, it is clear that either there is any point for consideration with respect to the plea of jurisdiction, nor any finding on the same. On this ground alone, the writ petition deserves to be allowed.

The Writ Petition is accordingly allowed. The impugned order dated 24.12.1997 is set aside. The matter is remitted back to the first respondent for fresh disposal in accordance with law on merits, especially considering the objection as to jurisdiction. No costs.

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16-03-2005

kvrm

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, The Chief Justice on this the Wednesday the Sixteenth day of March, two thousand and five.

To

1. The Chairman and Presiding Officer, Industrial Tribunal-cum-Labour Court, Visakhapatnam.
2. 2 CCs to GP for Labour, High Court Buildings, Hyderabad. (O.U.T)
3. 2 CD copies.